

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1143 OF 2006.

Kiran Vasant Achrekar.

... Petitioner.

Versus.

State of Maharashtra.

... Respondent.

Shri V.M.Thorat for the Petitioner.

Mrs.M.M.Deshmukh, A.P.P.for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 9th October, 2006.

P.C.:

1. Heard Shri Thorat appearing for the Petitioner.

By this writ petition filed under Article 227 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, the Petitioner has prayed for quashing the proceedings initiated against the Petitioner before the Special Court constituted under the Maharashtra Control of Organised Crimes Act, 1988 on the ground that the sanction as contemplated by section 197 of the Code of Criminal Procedure, 1973 has not been granted.

2. I have heard the learned Counsel appearing for

the Petitioner and the learned A.P.P. for the State.

Shri Thorat submits that the proceedings are vitiated

for want of sanction.

3. My attention has been invited to the decision of

the Apex Court in the case of Dr.Lakshmansingh

Himatsingh Vaghela v/s. Naresh Kumar Chandrashankar Jha

& others (AIR 1990 SC page 1976). Paragraph 7 of the

said decision reads thus:

"7. The appellant is holding an office from which he is removable by the Local Authority and not by the Government. The cancellation of the appointment as Public Analyst would not amount to removal from office. S.197 Cr.P.C., in this context contemplates the removal of the appellant from the office of the Laboratory Officer and not his transfer or removal from the office of the Public Analyst. The removal of the appellant from the office of Public Analyst would not affect his office as a Laboratory Officer under the Local Authority and would not amount to removal from office. The appellant is not therefore a public servant removable only by the State Government. The High Court was right in its view. We accordingly dismiss the appeal."

The Petitioner in this case is an employee of a local authority i.e. Mumbai Municipal Corporation. He can be removed from his office by the Local Authority and not by the Government. Apart from the said decision, so far as the present Petitioner is concerned, the issue regarding sanction is already decided against the Petitioner in order dated 12th October 2004 passed in Criminal Application No.3380 of 2004. In view of this position, there is no merit in the petition and the same is rejected.

Judge.